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I think this issue is best left to the free market to decide- once again, this should NOT be legislated. If the NAB is so concerned about losing marketshare, they should strive to improve. XM is a pay-for-service. Therefore, given the American tradition there is no reason why they should be interfered with in their efforts to provide subscribers with the best possible services. To legislate them out of being the best they can, is to cheat.
C'mon NAB, get it together, it's 2004, be there.